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7 **BEFORE THE**
8 **CALIFORNIA BOARD OF ACCOUNTANCY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2005-32

12 JAMES LARRY HUSTON
13 1849 Airfield Avenue
14 Kingman, AZ 86401

**DEFAULT DECISION
AND ORDER**

15 Certified Public Accountant Certificate
16 No. CPA 27454

[Gov. Code, §11520]

Respondent.

17 **FINDINGS OF FACT**

18 1. On or about December 16, 2005, Complainant Carol Sigmann, in her
19 official capacity as the Executive Officer of the California Board of Accountancy, Department of
20 Consumer Affairs, filed Accusation No. AC-2005-32 against James Larry Huston (Respondent)
21 before the California Board of Accountancy (Board).

22 2. On or about March 30, 1979, the Board issued Certified Public Accountant
23 Certificate No. CPA 27454 to Respondent. The certificate is subject to renewal every two years.
24 The Certified Public Accountant Certificate was renewed in inactive status through September
25 30, 2007.

26 3. On or about December 29, 2005, Maria Salazar, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 AC-2005-32, Statement to Respondent, Notice of Defense, Request for Discovery, and
Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's last address of record

1 with the Board, which was and is 1849 Airfield Avenue, Kingman, AZ 86401. A copy of the
2 Accusation, is Exhibit A, and is incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. Business and Professions Code section 118 states, in pertinent part:

6 "(b) The suspension, expiration, or forfeiture by operation of law of a license
7 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
8 board or by order of a court of law, or its surrender without the written consent of the board, shall
9 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
10 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
11 any ground provided by law or to enter an order suspending or revoking the license or otherwise
12 taking disciplinary action against the license on any such ground."

13 6. Government Code section 11506 states, in pertinent part:

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
16 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
17 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

18 7. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or upon
21 other evidence and affidavits may be used as evidence without any notice to respondent."

22 8. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 Exhibit A finds that the allegations in Accusation No. AC-2005-32 are true.

26 9. The total costs for investigation and enforcement are \$3,407 as of March
27 2, 2006.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent James Larry Huston
3 has subjected his Certified Public Accountant Certificate No. CPA 27454 to discipline.

4 2. A copy of the Accusation is attached as Exhibit A hereto and incorporated
5 herein by reference.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The California Board of Accountancy is authorized to revoke Respondent's
8 Certified Public Accountant Certificate based upon the following violations alleged in the
9 Accusation:

10 a. Business & Professions Code section 5100, subdivisions (d) and
11 (h) - in that Respondent's individual and firm registrations were disciplined by the Arizona State
12 Board of Accountancy on August 7, 2004, wherein the Arizona State Board of Accountancy
13 issued a Decision & Order (By Consent) Accepting Relinquishment of Certificate and
14 Registrations in Lieu of Formal Disciplinary Proceedings; and

15 b. Business & Professions Code section 5100, subdivision (g) in
16 violation of section 5063 subdivision (a)(3) - in that Respondent failed to report, within 30 days
17 of the suspension order, that he was disciplined by the Arizona State Board of Accountancy and
18 was suspended from practicing before the Internal Revenue Service.

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20 ORDER

21 IT IS SO ORDERED that Certified Public Accountant Certificate No. CPA
22 27454, heretofore issued to Respondent James Larry Huston, is revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on May 13, 2006.

7 It is so ORDERED April 13, 2006.

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10 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

11 60130082.wpd
12 DOJ docket number: LA2005600265

13 Attachment:
14 Exhibit A: Accusation No. AC-2005-32
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Exhibit A

Accusation No. AC-2005-32

1 BILL LOCKYER, Attorney General
of the State of California
2 GILLIAN E. FRIEDMAN, State Bar No. 169207
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2564
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2005-32

11 JAMES LARRY HUSTON
1849 Airfield Avenue
12 Kingman, AZ 86401

A C C U S A T I O N

13 Certified Public Accountant Certificate
No. CPA 27454

14 Respondent.
15

16 Complainant alleges:

17 **PARTIES**

18 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
19 capacity as the Executive Officer of the California Board of Accountancy, Department of
20 Consumer Affairs.

21 2. On or about March 30, 1979, the California Board of Accountancy issued
22 Certified Public Accountant Certificate No. CPA 27454 to James Larry Huston (Respondent).
23 On or about March 1989, the Certificate was renewed in inactive status without compliance with
24 continuing education requirements and remained in that status through September 30, 1991. The
25 Certificate was renewed in active status for the period October 1, 1991 through September 30,
26 1993, with compliance with continuing education requirements. The Certificate was renewed in
27 active status for the period October 1, 1993 through September 30, 1999, with compliance with
28 continuing education requirements. The Certificate expired and was not valid during the period

1 October 1, 1999 through October 13, 1999 for the following reasons:

2 (a) the renewal fee required by California Business and Professions Code section
3 5070.5 was not paid; and

4 (b) declaration of compliance with continuing education requirements was not
5 submitted.

6 Effective October 14, 1999, the Certificate was renewed in inactive status through
7 September 30, 2001, and then again for the period October 1, 2001 through September 30, 2003.

8 The Certificate expired and was not valid for the period October 1, 2003 through October 16,
9 2003, for the following reasons:

10 (a) the renewal fee required by California Business and Professions Code section
11 5070.5 was not paid; and

12 (b) declaration of compliance with continuing education requirements was not
13 submitted.

14 Effective October 17, 2003, the Certificate was renewed in inactive status through
15 September 30, 2005.

16 JURISDICTION

17 3. This Accusation is brought before the California Board of Accountancy
18 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
19 references are to the Business and Professions Code (Code) unless otherwise indicated.

20 4. Section 118, subdivision (b), of the Code provides that the expiration of a
21 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
22 period within which the license may be renewed, restored, reissued or reinstated.

23 5. Section 5100 states:

24 "After notice and hearing the board may revoke, suspend, or refuse to renew any
25 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
26 (commencing with Section 5080), or may censure the holder of that permit or certificate for
27 unprofessional conduct that includes, but is not limited to, one or any combination of the
28 following causes:

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2 "(d) Cancellation, revocation, or suspension of a certificate or other authority to
3 practice as a certified public accountant or a public accountant, refusal to renew the certificate or
4 other authority to practice as a certified public accountant or a public accountant, or any other
5 discipline by any other state or foreign country.

6 "(g) Willful violation of this chapter or any rule or regulation promulgated by the
7 board under the authority granted under this chapter.

8

9 "(h) Suspension or revocation of the right to practice before any governmental
10 body or agency."

11 6. Section 5063(a) of the Code requires a licensee to report in writing to the
12 Board within 30 days of the date the licensee has knowledge of the following event(s):

13

14 "(3) The cancellation, revocation, or suspension of the right to practice as a
15 certified public accountant or a public accountant before any governmental body or agency."

16 7. California Code of Regulations, title 16, section 58, provides that licensees
17 engaged in the practice of public accountancy shall comply with all applicable professional
18 standards, including but not limited to generally accepted accounting principles and generally
19 accepted auditing standards.

20 8. California Code of Regulations, title 16, section 80(a), states:

21 "Upon application, a licensee may have his/her license placed in an inactive status

22 (a) The holder of an inactive license shall not engage in the practice of public
23 accountancy as defined in Section 5051 of the Business and Professions Code. This section does
24 not prohibit a holder of an inactive license from receiving a share of the net profits from a public
25 accounting firm or other compensation from a public accounting firm, provided that the licensee
26 does not otherwise engage in the practice of public accountancy, directly or indirectly."

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1 9. Section 5107, subdivision (a), states:

2 "The executive officer of the board may request the administrative law judge, as
3 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
4 certificate found to have committed a violation or violations of this chapter to pay to the board all
5 reasonable costs of investigation and prosecution of the case, including, but not limited to,
6 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

7 FIRST CAUSE FOR DISCIPLINE

8 (Disciplined by Another State Agency)

9 10. Respondent is subject to disciplinary action under section 5100,
10 subdivisions (d) and (h) of the Code on the grounds of unprofessional conduct in that Respondent
11 was suspended by the Arizona State Board of Accountancy and the Internal Revenue Service.
12 The circumstances are as follows:

13 a. On or about August 7, 2004, a Decision & Order (By Consent) Accepting
14 Relinquishment of Certificate and Registrations in Lieu of Formal Disciplinary Proceedings was
15 issued by the Arizona State Board of Accountancy, In the Matter of Certified Public Accountant
16 Certificate No. 2087-E Issued to: JAMES L. HUSTON and Certified Public Accounting Firm
17 Registration No. 4147-S Issued to: JAMES L. HUSTON, CPA and Certified Public Accounting
18 Firm Registration No. 994-C Issued to: HUSTON & HUSTON, CPA's, P.C. Respondents,
19 ASBA File No. 2004.073.

20 b. The facts and circumstances surrounding the Arizona State Board of
21 Accountancy's disciplinary action are that Respondent's practice as a certified public accountant
22 before the Internal Revenue Service was suspended from May 1, 2003 through April 30, 2006.
23 Pursuant to Arizona Revised Statute § 32-741(A)(10), Respondent was required to report the
24 suspension to the Arizona State Board of Accountancy within 30 days of the date of the
25 suspension order. Respondent, however, failed to report the action to the Board. Moreover, in
26 Respondent's November 20, 2003 registration application to the Arizona State Board of
27 Accountancy, Respondent falsely stated "no" when asked whether his license had been limited or
28 suspended since his last renewal/registration.

1 c. Respondent is further subject to disciplinary action in that on or about
2 September 15, 1999, through a Decision and Order (By Consent) Respondent was disciplined by
3 the Arizona State Board of Accountancy In the Matter of Certified Public Accountant Certificate
4 No. 2087-E Issued to James L. Huston, CPA, Respondent file number 98.081 following a
5 suspension of his practice before the Internal Revenue Service for the period September 1, 1997
6 through December 31, 1997 and his failure to report that suspension to the Board.

7 d. Respondent is further subject to disciplinary action in that on or about
8 January 9, 1995, through a Decision and Order (By Consent) Respondent was disciplined by the
9 Arizona State Board of Accountancy In the Matter of Certified Public Accountant Certificate No.
10 2087-E Issued to James L. Huston, file number 94.158, following a finding that Respondent
11 failed to comply with the applicable tax practice standards when he prepared client income tax
12 returns for the years 1988, 1989 and 1990. Respondent was found to be in violation of the
13 applicable tax practice standards.

14 c. Respondent is further subject to disciplinary action in that on or about
15 August 30, 1984, through an Amended Order, Respondent was disciplined by the Arizona State
16 Board of Accountancy In the Matter of CPA Certificate No. 2087-E Issued to James L. Huston,
17 file number 87.103, following a finding that Respondent failed to comply with generally accepted
18 accounting principles (GAAP) and generally accepted auditing standards as a result of his
19 undertaking the engagements to audit and prepare audited financial statements for the following
20 clients: B. L. Shuffler & Sons, Inc., for the period that ended June 30, 1981; and the Special Fund
21 of the Mohave County Racing Commission for the eleven month period that ended May 31,
22 1982. Respondent also failed to comply with GAAP and professional standards for review
23 engagements and the preparation of reviewed financial statements for the following clients:
24 Freiday Construction, Inc., for the period that ended June 30, 1982; Valley National Bank (VNB)
25 Account No. 9012-7282 for the Mohave County Racing Commission for the thirteen months that
26 ended August 31, 1982; and VNB Account No. 9012-7266 for the Mohave County Racing
27 Commission for the twelve months that ended September 30, 1982.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Report Suspension To Board)

11. Respondent is subject to disciplinary action under section 5100(g) of the Code on the grounds of unprofessional conduct for violating section 5063(a)(3) in that Respondent failed to report to the Board, within 30 days of the suspension order, that he was disciplined by the Arizona State Board of Accountancy and was suspended from practicing before the Internal Revenue Service for the periods September 30, 1997 through December 31, 1997 and May 1, 2003 through April 30, 2006 as set forth above in paragraphs 10a - e.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending, or otherwise imposing discipline upon Certified Public Accountant Certificate No. CPA 27454, issued to James Larry Huston.

2. Ordering James Larry Huston to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: December 16, 2005


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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CML (10/13/2005)